

Remarks

Claim and Amendment Summary

Claims 1-7, 9, 11, 13-19, and 28-41 were pending. By this amendment, the previously submitted claims have been amended to increase their clarity. Non-elected claims 13-19 are cancelled without prejudice or disclaimer and new claims 42-63 are added for examination. In view of the Examiner's indication that amendments would require a new search and in view of the submission of new claims, a Request for Continued Examination is submitted herewith to facilitate entry and consideration of the amendment.

Interview Summary

The courtesy extended by Examiner Castellano to applicant's representatives in the personal interview of July 9, 2003 is noted with appreciation. During the interview, applicant's representatives showed the Examiner a sample of a commercial embodiment of the invention disclosed in the present application. Applicant's representatives also demonstrated a paper mock-up of the satchel bottom structure shown in U.S. Patent 3,549,451 to Kugler. The differences between these two structures were discussed, and the undersigned pointed to language in some of the claims that distinguishes these structures. The Examiner agreed that there is a structural difference and indicated that he would give the case further consideration upon receipt of a written response and after a further search.

Response to Pending Rejections

The pending rejections are respectfully traversed and reconsideration is requested based on the amendments herein and the following remarks. The above amendments have been made in an effort to put this application in condition for allowance, without prejudice or disclaimer of

any subject matter. Applicant reserves the right to submit additional claims for consideration in further divisional or continuation applications.

Claims 1-5, 9, and 30-38 were rejected as being obvious under 35 U.S.C. §103 based on the combination of Binks and Kugler. Claims 11, 28, 29, 39, 40 and 41 were rejected as being obvious based on the same combination with the further addition of the cited M&Q brochure. Claims 1-5, 9, 11 and 28-41 were also rejected as being obvious based on the combination of Ibsch or Ferlanti with Kugler and the M&Q brochure.

Each of these rejections relied on the Kugler '451 patent for key elements of the alleged prima facie case of obviousness. The Official Action suggests that Kugler shows contoured edges of the type recited in the pending claims and proposes motivations for modifying conventional pan liners to incorporate these structures. These assertions are respectfully traversed.

Kugler shows a bag with a square bottom having four corners. In particular, there are four layers of material below fold line "F" in Figure 5 of Kugler, and there are two parallel bottom edges sealed to edges A' (see Fig. 3 cross-section). When the four layers of material in Kugler are unfolded they make a "satchel" bag with a flat rectangular bottom, analogous to a bread bag. In this regard, the Examiner's attention is directed to the model provided during the recent interview.

As to amended claim 1, Kugler does not show a bag-shaped body having "a single contoured bottom edge forming a closed bottom end disposed over said pan proximate said bottom panel, wherein said contoured bottom edge has a flat bottom edge and two contoured edges extending upward from said flat bottom edge, with said flat bottom edge joined and merged at each end with one of said contoured edges...."

As to claim 32, in addition to other distinguishing features, Kugler does not show or suggest a pan liner comprising “one and only one contoured bottom edge...having one flat bottom edge and two contoured edges....”

In regard to claim 34, as one example of the differences between the prior art and the claimed invention, Kugler does not show a bag-shaped body having “two flexible side walls each having two side wall edges located at respective ends of said side walls, said side walls joined together at said two side wall edges” with “a contoured bottom edge that does not include dog ears forming a closed bottom end at a junction of said two flexible side walls.” It should be noted that the portions of Kugler alleged by the Official Action to be the contoured bottom edge are located at a junction between a side wall and the *bottom* of the Kugler bag. Kugler does not show a contoured bottom edge with the recited features at a junction between the two side walls joined at an edge, as set forth in amended claim 34.

Referring to claim 36, among other distinctions, Kugler does not show a contoured bottom edge “defining a center of a closed bottom end disposed over said pan....wherein said contoured bottom edge comprises one flat bottom edge extending in a first plane and only two contoured edges....” The portions of Kugler alleged to constitute a contoured bottom edge are located at the *sides* of the square bottom of Kugler and do not define a center of the bottom end of a pan liner.

Claim 38, as amended, recites a flat bag shape with a contoured bottom edge having a single central edge and two contoured edge portions joined to side edges. Kugler does not show or suggest such a structure.

New claims 42 through 63 are submitted for examination on the merits and are believed to be patentably distinct from combinations of Kugler with the other references relied upon in the Official Action.

The additional references relied upon in the pending rejections do not remedy the deficiencies of Kugler regarding the structures recited in the amended claims. Applicant therefore respectfully submits that Kugler, alone or in combination with any of the references currently applied, does not support a prima facie case of obviousness as to the revised claims. The amendments submitted herewith therefore overcome all of the pending rejections.

Any prima facie case of obviousness would also be overcome by the significant unobvious advantages of the invention when applied to pan liners in the food service industry. A square, flat-sided bag is typically the simplest possible bag structure and has a low manufacturing cost compared to more complex bags such as the square-bottom or "satchel" bag disclosed by Kugler. However, if a food service pan is lined using a conventional square flat-sided bag, food will collect in the corners or "dog ears" of the bag, preventing uniform cooking and service of food portions stuck in the "dog ears." The contoured edge feature of the present invention makes it possible to line a pan with a relatively inexpensively manufactured bag structure that prevents the collection of food in corners of the bag. The claimed contoured edge liner can be made with very few manufacturing steps and therefore at a low cost compared to more conventional packaging designs like the one shown in Kugler. As a result, the invention provides a highly functional food service industry pan liner that can be disposed of after a single use, and still provide a cost savings by reducing labor and materials for cleaning.

In closing, and in support of these unobvious advantages and the merits of the present application, it should be noted that Dr. Melvin Druin, an acknowledged expert in the packaging

and plastics industry with many years of experience, indicated that he had never seen a liner constructed in this manner and admitted being puzzled by the contoured edge feature on first inspection. After installing it in a pan and noting the fit provided by the contoured edge feature, Dr. Druin praised the contour.

The claims as amended patentably distinguish the invention from the prior art relied upon by the Office and the rejections should be reconsidered and withdrawn on that basis.

Conclusion

The applicant sincerely appreciates the courtesy extended by the Examiner and looks forward to the Examiner's further consideration of the case in view of the remarks and amendments submitted herewith. Applicant has endeavored to make the case ready for allowance, and a Notice of Allowance is earnestly solicited. If any problems should appear and a telephone conference or personal interview would advance the case, the Examiner is invited to call the undersigned, who will cooperate in any appropriate manner to expedite prosecution.

Respectfully submitted,

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